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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,106	08/26/2003	Dennis M. Wiedeman	16356.828 (DC-01970A)	6423
<div>27683      7590      01/29/2008</div> <div>HAYNES AND BOONE, LLP</div> <div>901 Main Street</div> <div>Suite 3100</div> <div>Dallas, TX 75202</div>				
<div>EXAMINER</div> <div>GREY, CHRISTOPHER P</div>				
<div>ART UNIT      PAPER NUMBER</div> <div>2616</div>				
<div>MAIL DATE      DELIVERY MODE</div> <div>01/29/2008      PAPER</div>				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

AK

<b>Office Action Summary</b>	<b>Application No.</b> 10/650,106	<b>Applicant(s)</b> WIEDEMAN ET AL.	
	<b>Examiner</b> Christopher P. Grey	<b>Art Unit</b> 2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7-12,14-19,21-28,30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-12,14-19,21-28,30 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-5, 8-12, 15-19, 21-28, 30, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan et al. (US 5027343), hereinafter referred to as Chan in view of Raj et al. (US 6373822), hereinafter referred to as Raj.

**Claim 1, 8, 15, 21-23, 30, 31** Chan discloses a first uniquely identified system under test located at a first site (**fig 8, SUT's 46 in remote site 1**) and a second uniquely identified SUT located at the remote site (**fig 8, see SUT's in 2<sup>nd</sup> and 3<sup>rd</sup> remote site**).

Chan discloses a switch at the local site (**fig 8, 25, see switch, where each site has a switch or terminal Col 4 lines 55-60, switching network**).

Chan discloses a plurality of SUT's within one site (**fig 8, SUT's 46 in remote site 1**).

Chan does not specifically disclose a connection between the first VLAN capable switch and the second VLAN capable switch such that the first and second SUTs are dynamically (connected to and disconnected from a VLAN. Chan does not specifically disclose a local burn rack located at the local site for receiving the first SUT and a

remote burn rack located at the remote site for receiving the second SUT such that the first and second SUT's are configured and tested while operating together on the VLAN.

Raj discloses a connection between the first VLAN capable switch and the second VLAN capable switch such that the first and second SUTs are dynamically (figs 7-11 and Col 6 lines 66-67 show a number of different configurations that may be employed fro the connection/disconnection. The number of configurations indicate that the connection may vary, and is thus dynamic depending on a designers choice) connected to and disconnected from a VLAN (fig 12, depicts two switches under test, connected as 200A and 200B, where these two switches form virtual connections, where one skilled in the art can appreciate two switches coming together to form a virtual LAN).

Raj discloses a local burn rack located at the local site for receiving the first SUT and a remote burn rack located at the remote site for receiving the second SUT (fig 12 depicts 2 switches 200A and 200B, where it is well known and understood within the art that a switch is not merely placed on the ground. A switch is typically placed within an enclosure, often acknowledged as a shelf or rack as implied by the claim) such that the first and second SUT's are configured and tested while operating together on the VLAN (fig 12 depicts both units under test 200A and 200B operating on the local network, where the network is formed of 200A and 200B, and furthermore being tested by 100 or 110).

It would have been obvious to one of the ordinary skill in the art at the time of the invention that the remote sites under test as disclosed by Chen, may be configured

and modified so as to form a network whereby they are connected such as that shown by Raj. The motivation for this modification is to perform testing across different network topology (abstract).

**Claim 2, 3, 9, 10, 17, 18, 25, 26** The combined teachings of Chan and Raj do not specifically disclose the local site being a manufacturing facility.

It would have been obvious to one of the ordinary skill in the art at the time of the invention that a VLAN may be implemented in any facility, including a manufacturing facility.

**Claim 4, 11, 19, 27** Chan discloses a data terminal equipment connection at the remote site (col 5, lines 39-32), where it would have been obvious to one of the ordinary skill in the art at the time of the invention that the DTE is capable of being part of a customer site.

**Claim 5, 12, 28** Chan discloses a data terminal equipment connection at the remote site (col 5, lines 39-32); where it would have been obvious to one of the ordinary skill in the art at the time of the invention that the terminal equipment may be that of a server.

**Claim 16** Chan discloses a packet network (fig 1, 22), wherein a packet network is made equivalent to that of an IP network.

**Claim 24** Chan discloses wherein the customer site is connected to the remote site by a router (see fig 8, 25, switch).

2. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chan et al. (US 5027343), hereinafter referred to as Chan in view of Raj et al. (US 6373822), hereinafter referred to as Raj in view of the applicants admitted prior art.

**Claim 7, 14** The combined teachings of Chan and Brady do not specifically disclose wherein the VLAN is private.

The applicants admitted prior art discloses wherein the VLAN is private (page 3 lines 1-5).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the combined teachings of Chan and Brady so as to employ the capability of dealing with private VLAN's, where the motivation to employ a private network is for security purposes.

### ***Response to Arguments***

3. The following is a response to the applicants arguments filed on 11/09/07:

(a) The applicant argued that the cited art does not teach a local burn rack.

The examiner contends that the claimed limitation interpreted within it broadest sense is disclosed within the rejection of claims 1, 8, 15, 23 and 31, wherein a local burn rack is broadly interpreted as a rack or enclosure for a switch or device. The examiner notes that the specification is not read into claims, and without specifying the term local burn rack, the examiner is open to a broad interpretation. Furthermore, Raj discloses in fig 10 switching routers 200A and 200B used for testing, located locally and remotely respectively. The rejection of claim 1 explains that these switching routers are

not merely sitting on the floor or being held by a human being. The switching routers are known within the art to be held by a rack or unit of some sort, where this rack or unit is equivalent to a burn rack.

(b) The applicant argued that the cited art does not teach a VLAN capable switch.

The examiner contends that the term capable is optional language, and the claimed switch may or may not be VLAN oriented. It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138

Furthermore, Raj shows a LAN wherein 2 computers are connected as shown in any of the figures. Making a LAN virtual is well known and applied within the art, and thus switching within a LAN of this sort is equivalent to VLAN switching. A VLAN switch is nothing new within the art, and one skilled in the art can interpret any switch as a VLAN switch as one skilled in the art can employ a switch within a LAN virtually.

### ***Conclusion***

**4. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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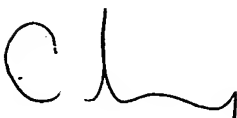
mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Grey whose telephone number is (571)272-3160. The examiner can normally be reached on 10AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (571)272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Grey  
Examiner  
Art Unit 2616

  
1/12/03

  
DORIS H. TO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2013